O R D E R:

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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 22565 of 1994

Between:

1 Surada Brahmam S/o. Rajayya
r/o. Dalaripalem, Paravada Mandal, Visakhapatnam District.
2 Surada Musalayya S/o. Late Tatayya
r/o. Dalaripalem, Paravada Mandal, Visakhapatnam District.
3 Chodipalli Danayya S/o. Late Nookalu
r/o.Chilakapeta, near Laxmi Talkies, Visakhapatnam District.

..... PETITIONERS

AND

1 Revenue Divisional Officer Visakhapatnam.
2 Mandal Revenue Officer, Pedagantyada, Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to i) issue rule nisi calling for records leading upto and inclusive of AIA 5 of 1993 on the file of the R.D.O. Visakhapatnam ii) to issue any appropriate writ order or direction more especially in the nature of writ of Mandamus declaring that the action of the 1st respondent herein in condonding the delay of preferring the appeal No AIA 5 of 1993 and entertaining the said appeal filed by the M.R.O. are illegal, incompetent and without jurisdiction is liable to be rejected and pass such other orders.

Counsel for the Petitioners:MR.M.ADINARAYANA RAJU

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

O R D E R:

Heard both the learned counsel.

The grievance of the petitioners is that against the orders of the Mandal Revenue Officer, Pedagantyada, Visakhapatnam in AIA NO.1113 of 1992, dated 05-02-1993, the 1st respondent preferred an appeal in ATA 5 of 1993 on the file of the Revenue Divisional Officer, Visakhapatnam. On receipt of the notices, the petitioners filed objections before the appellate Court stating that the appeal is barred by limitation and it no jurisdiction to entertain the appeal. The appellate Court without giving an opportunity of hearing to the petitioners, condoned the delay and if the appeal is allowed to be disposed of, the petitioners will be put to serious loss.

In view of the above, it is not necessary to go into the merits of the case or the objections raised by the petitioners. As regards the service of notice, no counter affidavit is filed by the respondents. In the interest of justice, I think it would suffice if a direction is given to the 1st respondent to issue notice to the petitioners and consider their case after giving an opportunity of hearing.

The writ petition is accordingly allowed. No costs.

12.08.2004

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Revenue Divisional Officer, Visakhapatnam
2. Mandal Revenue Officer, Pedagantyada, Visakhapatnam District.
3. 2 C.D.Copies
4. 2 CCs to the Government Pleader for Revenue (OUT)

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